

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims supersedes any previous listing. Favorable reexamination and reconsideration are respectfully requested in view of the preceding amendments and the following remarks.

Claim Amendments/Status

Claims 7 and 13-15 have been amended to clarify the subject matter for which protection is sought. Claims 7-15 remain pending in this application. Support for the amended subject matter of claims 7 and 13 is believed to be found in the originally filed disclosure and drawings. See for example pages 7 and 8 of the written description.

Rejections under 35 U.S.C. § 102, 103

The rejection of claims 7-10 and 14 under 35 U.S.C. § 102(e) as being anticipated by Pham et al. (U.S. Patent 6,787,840) is respectfully traversed.

The rejection of claims 11-13 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Pham et al. (U.S. Patent 6,787,840) in view of Sheng et al. (U.S. Patent 5,981,440) is also respectfully traversed.

Independent claims 7 and 13 as amended are such as to call for the dielectric layer and the control gate layer to be formed on the cell region and the distinct peripheral region, and patterned to form the gate of a CAM cell on the distinct peripheral region. That is, the gate formed on the distinct peripheral region includes the control gate layer and the dielectric layer.

Applicants call attention to column 3, lines 63-67 of Pham, wherein it is clearly disclosed that the dielectric layer (50) which is formed over the periphery region, is removed and does not remain. In addition, referring to column 4, lines 12-17 of Pham et al., it is also clearly disclosed that the thin oxide layer (60) and the thick oxide layer (62) are formed on the periphery region. That is, the gate formed on the periphery region which does not include the dielectric layer (especially, the nitride layer).

Accordingly, the applicant submits that the claim 7, as amended, is not anticipated under 35 U.S.C. § 102(e) by the Pham et al. disclosure.

It is further submitted that the combination of Pham et al. and Sheng et al. would not lead the hypothetical person of ordinary skill to the subject matter as now claimed.

Whether or not Sheng et al. disclose stacking oxide and nitride layers does not amount to motivation to consider the use in Pham et al. The position, which in a nutshell amounts to “its known so its obvious” does not, even in light of the *KSR INT’L CO. v. TELEFLEX INC.* decision, enable a reasonable case of *prima facie* obviousness to be established. The position that the use of the Sheng et al. stacking would “significantly” reduce the number of defect structures that extend directly through most or all of the dielectric layers, would infer that the Pham et al. arrangement is at least partially inoperative for its intended purpose – that is to say, such as to suffer from a significant number of defects which need to be cured.

However, it must be assumed that the PTO is not in the business of issuing patents on defective arrangements and as such, the need for the significant number of defects to be cured, cannot therefore exist. The rejection under 35 U.S.C. § 103(a) is therefore traversed for at least this reason.

Conclusion

It is respectfully submitted that the claims as they have been amended are allowable over the art which has been applied in this Office Action. Favorable reconsideration and allowance of this application are courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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